

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Claims Rejoinder

2. Claims 21-23, 25 and 28-36 are allowable. The restriction requirement among species a, b and c, as set forth in the Office action mailed on September 2, 2008, has been reconsidered in view of the allowability of claims to the elected invention pursuant to MPEP § 821.04(a). The restriction requirement is hereby withdrawn as to any claim that requires all the limitations of an allowable claim. Claims 22-23 25, and 28-29 are directed to a method for molding a preform having a cross sectional shape of a cross and inserting the cross shaped polygonal column into a jacket tube to form a preform with holes are no longer withdrawn from consideration because the claim(s) requires all the limitations of an allowable claim. However, claims 26 and 27, directed to a non-elected invention, remain withdrawn from consideration because they are directed towards a non-elected invention and do not require all the limitations of an allowable claim. More specifically, the invention of claim 26 forms holes by boring into a solid block and the invention of claim 27 forms holes by using a mold with a jig, which is removed to form the holes once the glass is molded. These inventions are clearly distinct from the elected invention wherein a molded preform with a cross-shape, that is

Art Unit: 1791

a polygonal column with concave portions, is inserted into a jacket tube to form holes in the preform as a result of the concave portions.

In view of the above noted withdrawal of the restriction requirement, applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

Once a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

Amendments

3. Authorization for this examiner's amendment was given in a telephone interview with Scott Woodbury on October 22, 2009.

The application has been amended as follows:

In the Claims:

In claim 21, line 17, "portions on the periphery thereof, wherein the mold is assembled with separable pieces of" has been amended to read - - portions on the periphery thereof, the glass preform being formed so as to have a cross sectional shape in the form of a cross, wherein the mold is assembled with separable pieces of - -.

In claim 32, line 6, "extending longitudinally at least partially between the first and second ends, the" has been amended to read - - extending longitudinally at least

Art Unit: 1791

partially between the first and second ends, the mold being comprised of four separable pieces, the - -.

Claim 22, line 9, “ whose core glass has conically suction” has been amended to read - - whose core glass has been conically suction - -.

Claim 22 line 4, “polygoned” has been deleted and - - polygonal- - inserted thereof.

Claim 23, the second paragraph has been amended as follows,

- - an act of pouring core glass melt comprised of tellurite glass with said composition and said components into the mold so as to fabricate the glass preform whose core glass has been conically suction molded by volume contraction of the cladding glass and by causing the cladding glass to flow out of said hole ~~volume contraction of the cladding glass and by causing the cladding glass to flow out of said hole~~; and - -.

Claims 26 and 27 have been cancelled.

Reasons for Allowance

4. The following is an examiner's statement of reasons for allowance: It is known tellurite glasses are typically molded and further processed through a rod-in-tube method for adding cladding. The claimed tellurite composition is also known in the art. The prior art of Large et al. (2005/0147366) even teaches molding optical core structure having a cross-sectional shape of a cross by utilizing a mold with four convex portions to manufacture polygon columnar preforms with concave portions running along the length of the preform. However the only material of focus demonstrated by Large is polymers. Additionally, the prior art of Mitachi et al. (JP 59-003030) teaches a molding

Art Unit: 1791

process for an optical fiber preform using a mold that is separable into three pieces for the removal of the glass preform. Although portions of the claimed inventions are individually known in the art, the prior art fails to provide a motivation for combining tellurite glass in a molding process for making holey or micro-structured fiber wherein the mold utilized has four separable pieces specifically and the glass preform made has the cross-sectional shape of a cross.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to QUEENIE DEGHAN whose telephone number is (571)272-8209. The examiner can normally be reached on Monday through Friday 9:00am - 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven Griffin can be reached on 571-272-1189. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1791

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Steven P. Griffin/
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